

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FRANCISCO GARCIA,)
Plaintiff,)
)
v.) Case No. 1:23-cv-01104
)
KANE COUNTY SHERIFF'S DEPARTMENT,) Judge Rebecca R. Pallmeyer
DEPARTMENT, et al.,)
Defendants.)

UNOPPOSED MOTION FOR ENTRY OF JUDGMENT OF DISMISSAL FOR
KANE COUNTY DEFENDANTS IN THIS MATTER

NOW COMES Defendants Kane County Sheriff’s Department, Kane County Sheriff Ronald Hain, and unknown Kane County Sheriff’s Department officers and employees (collectively “Kane County Defendants”), by their attorney, Kane County State’s Attorney Jamie L. Mosser, through her Assistants Marzena Chwistek Van de Burgt, and Elizabeth Tabor and for their motion of entry of judgment of dismissal for Kane County Defendants, state as follows:

1. On April 12, 2023, Plaintiff filed his First Amended Complaint against the Kane County Defendants alleging under 42 U.S.C. § 1983 two Counts, Count I failure to protect and Count II, a § 1983 *Monell* claim for inadequate training and supervision. (Doc. No. 6).
2. The Kane County Defendants moved to dismiss Plaintiff's allegations pursuant to Fed. R. Civ. P. 12(b)(6) challenging the sufficiency of the amended complaint (Doc. No. 24).
3. On March 22, 2024, this Court entered an order granting Kane County Sheriff's Department, Sheriff Ronald Hain, and other unnamed Sheriff's Department officers and employees' Motion to dismiss. (Doc. No. 54). The Court also granted Plaintiff leave to file an amended complaint on or before April 22, 2024. *Id.*

4. As of the filing of this motion, Plaintiff did not file amended complaint. Additionally, on May 7, 2024, counsel for Plaintiff, Don Konicek, informed counsel for Kane County Defendants that Plaintiff does not plan to pursue allegations against Kane County Defendants by filing an amended complaint.
5. Also, on May 7, 2024, counsel for Kane County Defendants received notification of Plaintiff's deposition which is being scheduled for May 23, 2024. Additionally, the discovery closure in this matter is set for June 14, 2024 with the dispositive motions deadline of July 19, 2024. The next telephone status hearing in this matter is set for July 22, 2024. (Doc. No. 58).
6. With the discovery deadlines fast approaching and with Plaintiff not filing amended pleadings against Kane County Defendants by the Court's designated deadline of April 22, 2024, the Kane County Defendants are entitled to a judgement of dismissal with prejudice in this case.
7. Additionally, the statute of limitation for filing claims against Kane County Defendants would have run out on February 9, 2024. Clearly, Plaintiff filed timely his complaint, however, due to Plaintiff's failure to file amended complaint by the Court's deadline of April 22, 2024, the Kane County Defendants seek this Court to enter a judgment of dismissal with prejudice for Kane County Defendants.
8. Based on the above, the Kane County Defendants request this Honorable Court to enter such a judgment and dismiss with prejudice Kane County Defendants from this matter.

WHEREFORE, Sheriff Ronald Hain, the Kane County Sheriff's Department and unknown Kane County Sheriff's Department officers and employees request this Honorable

Court to enter a judgment of dismissal with prejudice for Kane County Defendants in this matter and for such other relief as this Court deems just.

Respectfully submitted,
Kane County Defendants

By: /s/ Marzena Chwistek Van de Burgt
Marzena Chwistek Van de Burgt
Assistant State's Attorney

Certificate of Service

The undersigned hereby certifies upon penalties of perjury as provided by law, that I caused this **Unopposed Motion For Entry Of Judgment Of Dismissal For Kane County Defendants In This Matter** to be served upon all parties of record, registered with the Clerk of the Northern District of Illinois, by electronically filing a copy of the same via the Northern District of Illinois's CM/ECF filing system on May 9, 2024.

/s/ Marzena M. Chwistek Van de Burgt
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